

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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FERRILL VOLPICELLI.

Case No. 3:17-cv-00406-RCJ-VPC

Petitioner,

ORDER

Y.

LOVELOCK CORRECTIONAL CENTER
WARDEN, et al.,

Respondents.

15 Petitioner Ferrill Volpicelli has submitted a petition for a writ of habeas corpus
16 (ECF No. 1-1) and has paid the filing fee (see ECF No. 5).

17 Petitioner has also filed a motion to transfer case and indicates that he is
18 currently challenging the same judgment of conviction in his habeas petition in case no.
19 3:14-cv-00579-MMD-VPC. On April 3, 2017, this court granted a stay and abeyance of
20 the first federal petition (3:14-cv-00579-MMD-VPC, ECF No. 25). This petition,
21 therefore, is a second or successive habeas corpus petition. *Henderson v. Lampert*,
22 396 F.3d 1049, 1053 (9th Cir. 2005); 28 U.S.C. § 2244(b)(3). Petitioner indicates in his
23 motion to transfer that he seeks to add the claims raised here to the earlier-filed action.
24 Volpicelli must move to add claims or amend his petition in the first action, not initiate a
25 new action. In fact, Volpicelli has filed a motion to reopen the earlier case and a motion
26 to supplement and/or amend petition, indicating that he is aware of the proper
27 procedure. Accordingly, this petition shall be dismissed with prejudice as second and
28 successive and/or duplicative.

1 Reasonable jurists would not find this conclusion to be debatable or wrong, and
2 the court will not issue a certificate of appealability.

3 **IT IS THEREFORE ORDERED** that the Clerk shall **DETACH** and **FILE** the
4 petition (ECF No. 1-1).

5 **IT IS FURTHER ORDERED** that petitioner's motion to transfer the case (ECF
6 No. 4) is **DENIED**.

7 **IT IS FURTHER ORDERED** that the petition is **DISMISSED** with prejudice.

8 **IT IS FURTHER ORDERED** that a certificate of appealability is **DENIED**.

9 **IT IS FURTHER ORDERED** that the Clerk shall add Adam Paul Laxalt, Nevada
10 Attorney General, as counsel for respondents.

11 **IT IS FURTHER ORDERED** that the Clerk shall electronically serve the petition,
12 along with a copy of this order, on respondents. No response by respondents is
13 necessary.

14 **IT IS FURTHER ORDERED** that the Clerk shall **ENTER JUDGMENT** accordingly
15 and close this case.

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18 DATED: 29 January 2018.

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20 
21 ROBERT C. JONES
22 UNITED STATES DISTRICT JUDGE